

UNITED STATES INTERNATIONAL TRADE COMMISSION
~Vashington, D.C.

in the Matter of

CERTAIN INTEGRATED REPEATERS,
SWITCHES, TRANSCEIVERS AND
PRODUCTS CONTAINING SAME

Inv. No. 337-TA-435

LIMITED EXCLUSION ORDER

The Commission has determined that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. ~ 1337) in the unlawtul importation and sale by respondent Altima Communications Inc. of(1) integrated repeaters that are covered by claims 1-7, or 9 of 10 of U.S. Letters Patent 5,742,603, and (2) integrated repeaters and switches in plastic ball grid array packages that are covered by claims 23, 24, 27, or 29 of U.S. Letters Patent 5,894,410.

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order. The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude issuance of the limited exclusion order, and that the bond during the Presidential review period shall be in the amount of 100 percent of the entered value of the products in question.

Accordingly, the Commission hereby ORDERS that:

1. Integrated repeaters, and Circuit boards and carriers containing such devices, covered by claims 1-7, or 9 of U.S. Letters Patent 5,742,603 that are manufactured abroad and/or imported by or on behalf of Altima Communications inc. or any of its affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns, are excluded from entry, for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patent, i.e., until April 21, 2015, except under license of the patent owner or as provided by law.

2. Integrated repeaters, switches and other products in plastic ball grid array packages, and circuit boards and carriers containing such devices, covered by claims 23, 24, 27, or 29 of U.S. Letters Patent 5,894,410, that are manufactured abroad and/or imported by or on behalf of Altima Communications Inc. or any of its affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patent, i.e., until April 13, 2016, except under license of the patent owner or as provided by law.

3. The products listed in paragraphs 1 and 2 of this Order are entitled to entry for consumption into the United States entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption under bond in the amount of 100 percent of entered value pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended 19 U.S.C. § 1337(j), from the day after this Order is received by the President until such time as the President notifies the Commission that he approves or disapproves this action but, in any event, not later than sixty (60) days after the date of receipt of this action.

4. Pursuant to procedures to be specified by U.S. Customs Service, as the Customs Service deems necessary, persons seeking to import the products listed on paragraphs 1 and 2 of this Order shall certificate that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief. the products being imported are not excluded from entry under paragraphs 1 or 2 of this Order. At its discretion, the Customs Service may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

5. Within fourteen (14) days of the issuance of this Order, Altima Communications, inc shall provide the U.S. Customs Service with a list of affiliated companies, parents. subsidiaries. and other related business entities, that manufacture, import, or sell the products that are subject to this Order.

6. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

7. The Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services the Department of Justice, the Federal Trade Commission, and the US Customs Service.

8. Notice of this Order shall be published in the Federal Register.

By Order of the Commission.

Donna R. Koehnke
Secretary

Issued: October 24, 2001